



Police Superannuation Legislation Amendment Bill 2007

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Extract from NSW Legislative Council Hansard and Papers Wednesday 27
June 2007.

Second Reading

**The Hon. JOHN DELLA BOSCA (Minister for Education and Training,
Minister for Industrial Relations, Minister for the Central Coast, and Minister
Assisting the Minister for Finance) [9.02 p.m.]:** I move:

That this bill be now read a second time.

My speech is similar to that delivered in the lower House. Any changes have been provided to members of the House. I seek leave to have my second reading speech incorporated in *Hansard*.

Leave granted.

The Police Superannuation Legislation Amendment Bill 2007 introduces miscellaneous amendments to the Police Regulation (Superannuation) Act 1906. This Act governs the Police Superannuation Scheme which provides superannuation and workers compensation style benefits to police officers recruited prior to the scheme's closure to new members in April 1988.

The main purpose of the bill is to allow members of the Police Superannuation Scheme to salary sacrifice their compulsory member contributions to the Scheme. The bill also contains other amendments to clarify the intention of certain legislative provisions.

The proposed amendments do not affect the value of members' superannuation benefits or increase the Government's superannuation liabilities.

Members of the Police Superannuation Scheme are required to make member contributions at around 6 percent of salary. Currently these compulsory member contributions can only be paid from after-tax salary.

The amendments will allow Police Superannuation Scheme members to pay some or all of the compulsory member contributions from pre-tax salary under an effective salary sacrifice arrangement.

Some honourable members will recall that similar amendments were passed by Parliament in 2006 to allow members of the State Authorities Superannuation Scheme (known as SASS) to pay their compulsory member contributions from pre-tax salary. The SASS salary sacrifice arrangements came into effect from 1 April 2007 and potentially benefit around 60,000 SASS members.

The Superannuation Legislation Amendment Bill 2007 currently before Parliament proposes to extend similar salary sacrifice arrangements to another scheme that covers around 28,600 public sector employees, the State Superannuation Scheme. This bill extends the salary sacrifice arrangements to the Police Superannuation Scheme and employees covered by the Police Association Employees (Superannuation) Act 1969. Around 3,700 serving police officers may potentially benefit from these arrangements. It is anticipated that Pillar Administration and NSW Police Force will be able to finalise implementation of the salary sacrifice

arrangements by early 2008.

The amendments and proposed start date have been made in consultation with the SAS Trustee Corporation, the NSW Police Force and Police Association of NSW. The three schemes in question: SASS, the State Superannuation Scheme and the Police Superannuation Scheme are complex, older defined benefit schemes which vary in their designs. The salary sacrifice changes are being implemented in stages to allow time for State Super and employers to implement system changes and provide detailed information to members.

The passage of this bill will mean that all New South Wales public sector employees who are members of the defined benefit superannuation schemes will have the capacity to salary sacrifice their compulsory member contributions to those schemes. It is noted that Commonwealth public servants who are members of the defined benefit Commonwealth Superannuation Scheme are not able to salary sacrifice their compulsory member contributions.

New South Wales Government employees will continue to have the capacity to also make additional salary sacrifice contributions to an accumulation scheme such as First State Super.

Given the Commonwealth changes to the taxation of superannuation benefits and the co-contribution measures, it will be important for employees to carefully consider their individual financial circumstances before making salary sacrifice decisions.

Employees will be encouraged to seek independent financial advice.

Under the Police Regulation (Superannuation) Act 1906, benefits are payable to current and former police officers who have been certified by the SAS Trustee Corporation to be incapable, from infirmity of body or mind, of discharging the duties of the member's office. The amendments make clear that such a certificate is to be provided where a police officer or former police officer is incapable, from infirmity of body or mind, of exercising the functions (including powers, authorities and duties) of a police officer referred to in section 14(1) of the Police Act 1990. The functions referred to in that section are those conferred or imposed on a constable by or under any law, including the common law, of the State.

The proposed amendments are intended to overcome the decision in *Christopher Morley v SAS Trustee Corporation* (2007), New South Wales Industrial Relations Commission. The amendments make clear that a police officer who cannot personally perform the functions imposed on all police officers by section 14(1) of the Police Act 1990 shall be entitled to a superannuation allowance on being discharged.

Furthermore, the bill also makes clear that it is not relevant to consider an officer's actual rank or position at a particular point in time when determining whether he or she is capable of performing the duties of a constable.

The opportunity is taken in this bill to make minor amendments to the Police Regulation (Superannuation) Act 1906.

Minor amendments are proposed to the provisions dealing with what are known as section 12D medical expenses. These expenses are payable in respect of police officers who are hurt on duty and covers things such as ongoing visits to the doctor or physiotherapist.

For many years these have been administered directly by the NSW Police Commissioner. This arrangement is currently provided for by a Deed of Arrangement between the SAS Trustee Corporation and the Police Commissioner, consistent with the provisions of the Superannuation Administration Act 1996.

The SAS Trustee Corporation recently agreed to assume responsibility for the

payment of these expenses and decided it would be more efficient and cost effective to outsource this function. Any increased costs associated with outsourcing are expected to be marginal. The proposed amendments clarify that the Trustee can outsource the administration of medical expenses.

The amendments relating to the payment of medical expenses do not affect the Trustee's role in administering any of the other benefit payable from the Police Superannuation Scheme. The Police Commissioner's role continues to be responsible for determining whether an injury or death of a police officer arose out of an "on duty" incident.

The bill also contains minor amendments that clarify the meaning of provisions relating to the superannuation entitlements of executive officers who are members of the Police Superannuation Scheme. Similar amendments are contained in the other superannuation bill before Parliament applying to executive officers who are members of the State Superannuation Scheme and the State Authorities Superannuation Scheme.

Since the Senior Executive Service was established in 1989, executive officers who are members of the defined benefit schemes have been entitled at any time to transfer their benefits in those schemes to an accumulation scheme. After the Public Sector Executive Superannuation Scheme was closed in 1999, executive officers could transfer their benefits to First State Super or another complying accumulation fund.

The transfer provisions are currently capable of being misinterpreted to mean that executive officers have to first cease employment before the benefits can be transferred. This has caused confusion in the administration of the superannuation schemes. The bill clarifies that executive officers continue to have the right to transfer their benefits out of their scheme at any time.

I commend the bill to the House.